



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2011 Biennium

<b>Bill #</b>	SB0351	<b>Title:</b>	Revise residential mortgage licensing law
<b>Primary Sponsor:</b>	Essmann, Jeff	<b>Status:</b>	As Amended in House Committee

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<b>Expenditures:</b>				
State Special Revenue	\$37,912	\$30,970	\$29,077	\$29,270
<b>Revenue:</b>				
State Special Revenue	\$127,180	\$131,914	\$139,904	\$132,400
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**Description of fiscal impact:** This bill will create additional expenditures and revenue to the state special revenue fund for the licensure and regulation of residential mortgage lenders and mortgage brokers. The mortgage broker licensing program is currently operating at a loss with a deficit in revenue. The increase in licensing costs reflected in this fiscal note may allow the mortgage licensing programs to be self supporting. The Banking Division is self funded through its examination and licensing fees.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Administration – Banking Division**

1. There are 94 mortgage broker entities, 15 mortgage broker sole proprietors, 116 individual mortgage brokers, and 165 loan originators, which maintain active licenses that have been issued by the department. The department assumes that the existing mortgage brokers and loan originators will maintain their licenses under this bill.
2. There are 83 mortgage lender entities and 106 mortgage lender branches that have been licensed by the department. The department assumes that the existing residential mortgage lender entities and mortgage lender branches will maintain their licenses under this bill.

3. Montana business entities and individuals involved with the mortgage loan process but not presently required to be licensed will have to be licensed in order to comply with the bill. This includes the licensing of loan originators employed by mortgage lenders and mortgage broker branches.
4. Out-of-state business entities and individuals involved with the mortgage loan process but not presently required to be licensed will have to be licensed in order to comply with the bill. This refers to an increase of mortgage broker and loan originator licensees as a result of eliminating the brick and mortar requirement that exists under present mortgage broker law.
5. It is assumed that the number of licensed loan originators will increase as a result of eliminating the brick and mortar requirement for mortgage brokers. This increase is included within assumption #4 and reflected accordingly in the table below. It is also assumed that the number of licensed loan originators will increase as a result of licensing loan originators employed by mortgage lenders. This increase is included within assumption #3 and reflected accordingly in the table below. Additional revenue will be received from processing other new loan originator applications. However, the department assumes that the number of existing loan originator licensees will remain the same as a result of some licenses being surrendered or not renewed.
6. Persons presently licensed as individual mortgage brokers will be licensed as loan originators and subject to the licensing fee required for loan originators.
7. Entities holding dual licenses as a mortgage lender and mortgage broker will be subject to all entity and branch license fees. Present law provides that mortgage lender applicants who hold mortgage broker licenses are exempt from paying certain lender license fees.
8. An owner of an entity that is also seeking licensure as an individual mortgage broker shall pay a single nonrefundable license application fee of \$500. Existing law limits this provision to sole owners of an entity. It is assumed that certain applicants will meet these criteria which will result in a reduction of mortgage broker licensing fees.
9. Mortgage broker licensees will be responsible for paying the actual cost of an examination or investigation. Present law provides for an examination fee of \$300 per examiner, per day. Actual cost includes examiner salary and benefits as well as per diem, lodging and transportation. It is assumed that the average cost of an examination will increase. The department estimates that it will complete a total of 20 examinations or investigations per fiscal year. The actual cost of the examinations has been adjusted by 2.5% annually for inflation beginning in FY 2011.
10. The bill requires civil fines levied against residential mortgage lenders and mortgage brokers to be deposited into the department's state special revenue account. It is impossible for the department to estimate how many civil fines may be imposed against mortgage lenders and mortgage brokers.
11. The federal SAFE Act requires that pre-licensing education, testing and continuing education be approved by the NMLS. The department currently maintains this approval process and charges a \$100 application fee and \$50 fee for each approved hour of continuing education. The department's revenue from approving education providers and courses will be eliminated beginning in FY 2010.
12. The department will propose new or amended administrative rules to implement the provisions contained within this bill. The cost of rulemaking includes hiring a court reporter for the hearing and the publication charges in the administrative rule register. The department assumes that rulemaking will begin annually in FY 2010.
13. Mandatory participation in the Nationwide Mortgage Licensing System (NMLS) requires training of non-examiner department staff in order to process applications on the licensing system. The department assumes that six members of its staff would participate in the training. The department assumes that the cost to attend the training would be \$10,080 in both FY 2010 and FY 2011. The estimate includes the cost of transportation, lodging and per diem to an out-of-state training facility maintained by the NMLS. The department estimates that the ongoing costs for staff training in using the NMLS will be \$12,000 in both FY 2012 and FY 2013.

14. Upon passage of this bill, the department plans to hire 2.0 FTE in positions that have been allocated to the mortgage programs, but have never been filled due to a decline in mortgage licensing revenue. The 2.0 FTE will be pay band 5 financial examiners which will be needed for licensing, industry and consumer inquiries, complaints, and examinations. There is no fiscal impact related to the personal services cost for these 2.0 FTE since the positions have already been created and included within the present department budget.
15. Operating expenses for the 2.00 FTE are provided in the table below. Operating expenses include supplies and materials, communications, training and travel for examinations. The operating expenses have been adjusted by 2.5% annually for inflation beginning in FY 2011.
16. The National Mortgage Licensing System (NMLS) processing fees for initial and renewal applications will be paid by entity, branch and individual licensees. The processing fees are not included in the tables within this fiscal note because they are charged by and remitted directly to the NMLS. The NMLS processing fees are as follows: entity \$100; branch \$20 and loan originator \$30. Loan originators are also subject to the processing fee upon the transfer of a license to a new employing business entity. Individual mortgage brokers will be subject to the loan originator fee and mortgage broker sole proprietors will be subject to both the entity and loan originator fees.

<b>Revenue</b>					
<b>Assumption</b>	<b>#</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
Licensure of Loan Originators Employed by Mortgage Lenders	3	\$80,000	\$80,000	\$80,000	\$80,000
Mortgage Broker Branch Licensing	3	\$12,500	\$12,500	\$12,500	\$12,500
Elimination of mortgage broker brick and mortar requirement	4	\$29,000	\$41,250	\$41,250	\$41,250
Licensure of Individual Mortgage Brokers as Loan Originators	6	(\$11,600)	(\$11,600)	(\$11,600)	(\$11,600)
Fees for Dual Licensure	7	\$13,250	\$13,250	\$13,250	\$13,250
Sole owners subject to one fee if also applying as individual broker	8	(\$2,500)	(\$2,500)	(\$2,500)	(\$2,500)
Actual Cost of Examinations	9	\$9,380	\$9,614	\$9,854	\$10,100
Reduction in Revenue from	11	(\$2,850)	(\$10,600)	(\$2,850)	(\$10,600)

Education Provider Fees					
<b>Totals</b>		<b>\$127,180</b>	<b>\$131,914</b>	<b>\$139,904</b>	<b>\$132,400</b>

<b>Expense</b>					
<b>Assumption</b>	<b>#</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
Rulemaking Fees	12	\$2,000	\$2,000	\$2,000	\$2,000
Staff Training on NMLS	13	\$10,080	\$10,080	\$12,000	\$12,000
2.0 FTE – Operational Cost	15	\$25,832	\$18,890	\$15,077	\$15,270
<b>Totals</b>		<b>\$37,912</b>	<b>\$30,970</b>	<b>\$29,077</b>	<b>\$29,270</b>

	<b><u>FY 2010 Difference</u></b>	<b><u>FY 2011 Difference</u></b>	<b><u>FY 2012 Difference</u></b>	<b><u>FY 2013 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
Operating Expenses	\$37,912	\$30,970	\$29,077	\$29,270
<b>TOTAL Expenditures</b>	<b>\$37,912</b>	<b>\$30,970</b>	<b>\$29,077</b>	<b>\$29,270</b>
<b><u>Funding of Expenditures:</u></b>				
State Special Revenue (02)	\$37,912	\$30,970	\$29,077	\$29,270
<b>TOTAL Funding of Exp.</b>	<b>\$37,912</b>	<b>\$30,970</b>	<b>\$29,077</b>	<b>\$29,270</b>
<b><u>Revenues:</u></b>				
State Special Revenue (02)	\$127,180	\$131,914	\$139,904	\$132,400
<b>TOTAL Revenues</b>	<b>\$127,180</b>	<b>\$131,914</b>	<b>\$139,904</b>	<b>\$132,400</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
State Special Revenue (02)	\$89,268	\$100,944	\$110,827	\$103,130

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Sponsor's Initials\_\_\_\_\_  
Date\_\_\_\_\_  
Budget Director's Initials\_\_\_\_\_  
Date